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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSHUA GONZALEZ

Plaintiff,

vs.

CITY OF HUNTINGTON BEACH;
TREVOR JACKSON; RICHARD
GONZALES; MICHAEL SCAFUTO;
and DOES 1 through 10, inclusive,

Defendants.

) Case No.

) COMPLAINT FOR DAMAGES FOR:

-) 1. Violation Of Fourth Amendment -
) Unlawful Seizure Of Person;
) 2. Violation of Fourth Amendment –
) Excessive Force;
) 3. Violation Of Fourth Amendment –
) Unlawful Search And Seizure Of
) Private Residence;
) 4. Violation of Fourth and Fourteenth
) Amendments – Malicious
) Prosecution;
) 5. Violation of Fourteenth Amendment
) – Deliberate Fabrication of Evidence;
) 6. Municipal Liability – Failure to Train
) and/or Discipline;
) 7. False Arrest (California Law);
) 8. Battery (California Law);
) 9. Assault (California Law);
) 10. Violation of Cal. Civil Code § 52.1;
) 11. Negligence (California Law);
) 12. Trespass to Property (California
) Law);
) 13. Intentional Infliction of Emotional
) Distress (California Law);

) **JURY TRIAL DEMANDED**

COMPLAINT FOR DAMAGES

1 COMES NOW Plaintiff Joshua Gonzalez and shows this honorable court the
2 following:

3 **JURISDICTIONAL ALLEGATIONS**
4

5 1. As this action is brought under 42 U.S.C. § 1983, this court has jurisdiction
6 over this case under its federal question jurisdiction pursuant to 28 U.S.C. § 1331.
7

8 2. As the incidents complained of in this action occurred in the County of
9 Orange, State of California, within the territorial jurisdiction of this court, venue properly
10 lies in this court pursuant to 28 U.S.C. § 1391(b)(2). As Plaintiff's claims brought under
11 California state law arise out of the same transactions and occurrences, and out of a
12 common nucleus of operative facts as the Plaintiff's federal question claims, this court
13 has jurisdiction over the Plaintiff's California State law claims under its supplemental
14 jurisdiction under 28 U.S.C. § 1367, and otherwise pursuant to *Mine Workers v. Gibbs*.
15
16

17 **GENERAL ALLEGATIONS**
18

19 3. Plaintiff Joshua Gonzalez, hereinafter referred to as "GONZALEZ" or
20 "Plaintiff GONZALEZ", is a natural person, who, at all times complained of in this
21 action, resided in the State of California.
22

23 4. Defendant City of Huntington Beach, hereinafter also referred to as "CITY",
24 is a municipal entity located in the State of California; within the territorial jurisdiction of
25 this court.
26

27 5. Defendant Trevor Jackson, hereinafter also referred to as "JACKSON", is, and
28

1 at all times complained of herein, was, a City of Huntington Beach Police Department
2 Officer, acting as an individual person under the color of state law, in his individual
3 capacity and was acting in the course of and within the scope of his employment with
4 defendant CITY.
5

6 6. Defendant Richard Gonzales, hereinafter also referred to as “GONZALES”, is,
7
8 and at all times complained of herein, was, a City of Huntington Beach Police
9 Department Officer, acting as an individual person under the color of state law, in his
10 individual capacity and was acting in the course of and within the scope of his
11 employment with defendant CITY.
12

13 7. Defendant Michael Scafuto, hereinafter also referred to as “SCAFUTO”, is,
14
15 and at all times complained of herein, was, acting as an individual person under the color
16 of state law, as he conspired with state officials to deprive Plaintiff of Constitutionally
17 protected rights.
18

19 8. Defendants DOES 1 through 6, inclusive, are sworn peace officers and / or
20 police officers and/or investigators and/or Special Officers and/or a dispatchers and/or
21 some other public officer, public official or employee of defendant CITY and/or
22 otherwise employed by the Huntington Beach Police Department, who in some way
23 committed some or all of the tortious actions (and constitutional violations) complained
24 of in this action, and/or are otherwise responsible for and liable to plaintiff for the acts
25 complained of in this action, whose identities are, and remain unknown to plaintiff, who
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1 will amend his complaint to add and to show the actual names of said DOE defendants
2 when ascertained by plaintiff.

3 9. At all times complained of herein, DOES 1 through 6, inclusive, were acting
4 as individual persons acting under the color of state law, pursuant to their authority as
5 sworn peace officers and/or police officers and/or Special Officers and/or Supervisors
6 (i.e. Sergeants, Lieutenants, Captains, Commanders, etc.) and/or dispatchers, employed
7 by the Huntington Beach Police Department, and were acting in the course of and within
8 the scope of their employment with defendant CITY.
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12 10. Defendants DOES 7 through 10, inclusive, are sworn peace officers and/or
13 the Chief and/or Assistant Chiefs and/or Commanders and/or Captains and/or Lieutenants
14 and/or Sergeants and/or other Supervisory personnel and/or policy making and/or final
15 policy making officials, employed by the Huntington Beach Police Department and/or
16 defendant City of Huntington Beach, who are in some substantial way liable and
17 responsible for, or otherwise proximately caused and/or contributed to the occurrences
18 complained of by plaintiff in this action, such as via supervisory liability (i.e. failure to
19 properly supervise, improperly directing subordinate officers, approving actions of
20 subordinate officers), via bystander liability (failing to intervene in and stop unlawful
21 actions of their subordinates and/or other officers), and such as by creating and/or causing
22 the creation of and/or contributing to the creation of the policies and/or practices and/or
23 customs and/or usages of the Huntington Beach Police Department for, *inter alia*,: 1) for
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1 unlawfully seizing persons; 2) for using excessive force on persons; 3) unlawful entry
2 and searches of residences; 4) maliciously prosecuting persons 5) fabricating evidence
3 and 6) covering up tortious conduct by Huntington Beach Police Department peace
4 officers.
5

6 11. At all times complained of herein, DOES 7 through 10, inclusive, were
7 acting as individual persons acting under the color of state law, pursuant to their authority
8 as the Chief and/or the Assistant Chief and/or Captains and/or Lieutenants and/or
9 Sergeants and/or other Supervisory personnel and/or policy making and/or final policy
10 making officials with the Huntington Beach Police Department, and/or some other public
11 official(s) with defendant CITY, and were acting in the course of and within the scope of
12 their employment with defendant CITY.
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16 12. At all times complained of herein, defendants DOES 7 through 10, inclusive,
17 were acting as individual persons under the color of state law; under and pursuant to their
18 status and authority as peace officers and/or Supervisory peace officers (as described
19 herein, above and below), and/or policy making peace officers, with the Huntington
20 Beach Police Department and/or otherwise with defendant CITY¹.
21
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23 13. Plaintiff is presently unaware of the identities of DOES 1 through 10,
24 inclusive, and will amend his complaint to add and to show the actual names of said DOE
25 defendants, when made known to plaintiff.
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¹ Such as a CITY executive officer.

1 18. On November 1, 2016, GONZALEZ noticed SCAFUTO place a note on
2 GONZALEZ' boyfriend's vehicle. GONZALEZ retrieved the note which stated that the
3 vehicle could not be parked there and would be towed if it wasn't moved.
4

5 19. GONZALEZ went to SCAFUTO's home to ask SCAFUTO why he placed
6 the note on the vehicle because the vehicle was lawfully parked.
7

8 20. GONZALEZ could not find the front door to SCAFUTO's home.
9 GONZALEZ was walking on a public alley way and never set foot on SCAFUTO's
10 property.
11

12 21. SCAFUTO then opened his garage door. GONZALEZ was still standing on
13 the public alley.
14

15 22. GONZALEZ asked SCAFUTO why he placed the note on his boyfriend's
16 vehicle. SCAFUTO initially denied leaving the note. GONZALEZ told SCAFUTO that
17 he saw him place the note on the vehicle. SCAFUTO then told GONZALEZ that he was
18 going to have the vehicle towed.
19

20 23. GONZALEZ tried to explain to SCAFUTO that the car was lawfully parked.
21 SCAFUTO then began screaming that GONZALEZ was trespassing and that he was
22 going to call the tow truck company.
23

24 24. GONZALEZ left and went to his boyfriend's home which was only a few
25 houses down, to inform him that SCAFUTO was going to have his car towed.
26
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1 25. SCAFUTO then called the police to report that GONZALEZ had trespassed
2 on his property (something that never happened.)

3 26. GONZALEZ' boyfriend, James, didn't want to deal with SCAFUTO or the
4 possibility of his car being towed, so James went outside to move his car.
5

6 27. GONZALEZ followed James outside. While GONZALEZ was outside,
7 Defendant GONZALES approached Plaintiff GONZALEZ and asked if Plaintiff
8 GONZALEZ would speak with him.
9

10 28. GONZALEZ agreed to speak with Defendant GONZALES. Plaintiff
11 GONZALEZ identified himself and told Defendant GONZALES where he lived. He also
12 started to tell Defendant GONZALES about his recent interaction with SCAFUTO.
13

14 29. Defendant GONZALES asked Plaintiff GONZALEZ if he had his I.D.
15 Plaintiff GONZALEZ told Defendant GONZALES that his I.D. was inside the house.
16 Plaintiff GONZALEZ then told Defendant GONZALES that he was going to get his I.D.
17

18 30. Plaintiff GONZALEZ started to walk towards his home to get his I.D. when
19 his roommate Shannon came outside and began to ask Defendant GONZALES why
20 Plaintiff GONZALEZ needed to get his I.D.
21

22 31. Plaintiff GONZALEZ followed Shannon back to where Defendant
23 GONZALES was standing. The three of them then had a conversation.
24

25 32. Plaintiff GONZALEZ then walked to his home.
26
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1 33. Defendant GONZALES never told Plaintiff GONZALEZ that he was under
2 arrest, that he was detained, that couldn't leave or to stay put. Defendant GONZALES
3 never said or did anything to suggest that Plaintiff GONZALEZ was not free to leave.
4

5 34. Shannon stayed with Defendant GONZALES and spoke with him after
6 Plaintiff GONZALEZ had left for his home.
7

8 35. Shannon then started to walk towards her home. Plaintiff GONZALEZ and
9 Shannon then entered into their property which is surrounded by an 8 foot fence. Plaintiff
10 GONZALEZ then went inside his home.
11

12 36. JACKSON was speaking with SCAFUTO. Based on information and belief,
13 SCAFUTO told JACKSON that Plaintiff GONZALEZ had trespassed on his property,
14 was a drug addict and other disparaging comments – all of which are not true.
15

16 37. JACKSON left his conversation with SCAFUTO and joined Defendant
17 GONZALES. The two defendants then walked towards Plaintiff GONZALEZ' home.
18

19 38. JACKSON and GONZALES then stood outside of the Plaintiff's home and
20 began speaking with some of Plaintiff's friends who happened to be at his home that
21 evening. These conversations took place outside of Plaintiff's property for several
22 minutes.
23

24 39. JACKSON then decided to enter Plaintiff's property by going through the
25 gate which was surrounded by an 8 foot fence. GONZALES followed JACKSON into the
26 property.
27
28

1 40. JACKSON and GONZALES then entered into Plaintiff's home.

2 41. JACKSON and GONZALES did not have a warrant, consent, exigent
3 circumstances, or any other lawful justification for entering Plaintiff's property and
4 home.
5

6 42. Plaintiff GONZALEZ went into his bedroom and locked the door when he
7 saw JACKSON and GONZALES violently storm through his home. GONZALEZ was
8 scared for his life.
9

10 43. JACKSON then started to pound on Plaintiff GONZALEZ' door and
11 demand that he come out. JACKSON was screaming at Plaintiff GONZALEZ.
12

13 44. Terrified, Plaintiff GONZALEZ told JACKSON that he would open the
14 door if JACKSON promised not to hurt him.
15

16 45. Plaintiff GONZALEZ unlocked the door and JACKSON violently threw
17 open the door, grabbed Plaintiff GONZALEZ and threw GONZALEZ onto his bed.
18

19 46. JACKSON then got on top of GONZALEZ. JACKSON put GONZALEZ'
20 hands behind his back and dug his knees into GONZALEZ' back.
21

22 47. GONZALEZ was screaming out in pain. He had a previous back surgery and
23 JACKSON was grinding his knee into GONZALEZ' back. He was also screaming
24 because he thought JACKSON was going to kill him.
25
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1 48. While on the bed, JACKSON searched GONZALEZ and then flipped him
2 over. JACKSON then wrapped both of his hands around GONZALEZ' neck and began
3 choking him.
4

5 49. GONZALES then entered the room and assisted JACKSON in handcuffing
6 Plaintiff GONZALEZ.
7

8 50. JACKSON and GONZALES then placed Plaintiff GONZALEZ in the back
9 of a patrol car.
10

11 51. While GONZALEZ was in the back of the patrol vehicle, JACKSON,
12 GONZALES and Does 1 through 6, inclusive, repeatedly told GONZALEZ that if he
13 says that he was told that he was detained prior to entering his property, he would not be
14 prosecuted. Defendants JACKSON, GONZALES and Does 1 through 6, inclusive, also
15 told Plaintiff GONZALES that things will be a lot worse for him if he requests medical
16 care.
17
18

19 52. Plaintiff GONZALEZ refused to say that he was told that he was detained,
20 because it never happened.
21

22 53. Plaintiff GONZALEZ was then released and cited for a violation of Penal
23 Code § 148(a)(1) and Penal Code § 602(L.)
24

25 54. Defendants JACKSON and GONZALES then knowingly prepared police
26 reports that were filled with falsehoods.
27
28

1 55. Knowing that they lied in their reports, JACKSON and GONZALES
2 submitted their reports to the Orange County District Attorney's Office and requested
3 prosecution.
4

5 56. On March 28, 2017, the Orange County District Attorney's Office filed a
6 misdemeanor complaint against GONZALEZ for an alleged violation of Penal Code §
7 148(a)(1.)
8

9 57. On January 29, 2018, the Orange County District Attorney's Office
10 dismissed the criminal action against GONZALEZ "in the interest of justice" after they
11 saw that JACKSON and GONZALES' reports were bogus.
12

13 58. As complained of herein above, none of the defendants to this action had a
14 warrant for GONZALEZ' arrest, nor probable cause to believe that GONZALEZ had
15 committed a crime, nor reasonable suspicion that GONZALEZ was a danger to anyone or
16 anything, nor even a reasonable suspicion of criminality afoot by GONZALEZ.
17
18

19 59. Accordingly, the seizure of GONZALEZ by Defendants JACKSON,
20 GONZALES and DOES 1 through 6, inclusive, by use of force, constituted an unlawful
21 and unreasonable seizure of GONZALEZ, in violation of his rights under the Fourth
22 Amendment to the United States Constitution.
23

24 60. As a direct and proximate result of the actions of Defendants JACKSON,
25 GONZALES and DOES 1 through 6, inclusive, as complained of herein, GONZALEZ:
26 1) was substantially physically, mentally and emotionally injured; 2) incurred medical
27
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1 and psychological costs, bills and expenses and 3) incurred other special and general
2 damages and expenses in an amount to be proven at trial which is in excess of
3 \$3,000,000.00.
4

5 61. The actions by said defendants were committed maliciously, oppressively
6 and in reckless disregard of GONZALEZ' constitutional rights, sufficient for an award of
7 punitive / exemplary damages against all defendants and each of them, save for
8 Defendant CITY, in an amount to be proven at trial which is in excess of \$2,000,000.00.
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11 **SECOND CAUSE OF ACTION**
12 **VIOLATION OF 42 U.S.C. § 1983**
13 **Violation of Fourth Amendment Rights -**
14 **Excessive/Unreasonable Use of Force on Person**
15 **(Against JACKSON, GONZALES, SCAFUTO and DOES 1 through 6, inclusive)**

16 62. Plaintiff hereby realleges and re-incorporates by reference the allegations set
17 forth in paragraphs 1 through 61 inclusive, above, as if set forth in full herein.

18 63. As mentioned above and in addition to the above and foregoing, when
19 GONZALEZ was unlawfully arrested, he was physically beaten by JACKSON,
20 GONZALES and DOES 1 through 6, inclusive.
21

22 64. The actions of Defendants JACKSON, GONZALES and DOES 1 through 6,
23 inclusive, as complained above herein, constituted a violation of GONZALEZ' rights
24 under the Fourth Amendment to the United States Constitution to be free from the use of
25 unlawful and unreasonable and excessive force upon his person.
26

27 65. As a direct and proximate result of the actions of Defendants JACKSON,
28

1 GONZALES and DOES 1 through 6, inclusive, GONZALEZ was: 1) substantially
 2 physically, mentally and emotionally injured; 2) incurred medical and psychological
 3 costs, bills and expenses, 3) incurred lost wages and profits, and 4) suffered terrible
 4 physical injury, pain and suffering, as well as mental and emotional pain and suffering,
 5 and 5) suffered / is suffering lost wages and profits; all in an amount to be proven at trial;
 6 in excess of \$3,000,000.00.
 7
 8

9 66. The actions of said defendants, and each of them, as complained of herein,
 10 were committed maliciously, oppressively and in reckless disregard of GONZALEZ'
 11 constitutional rights, sufficient for an award of punitive / exemplary damages against said
 12 defendants, save CITY, in an amount to be proven at trial, in excess of \$2,000,000.00.
 13
 14

15 **THIRD CAUSE OF ACTION**
 16 **[VIOLATION OF 42 U.S.C. § 1983]**
 17 **Violation Of Fourth Amendment Rights**
 18 **Unreasonable / Unlawful Search and Seizure of Property**
 19 **(Against Defendants JACKSON, GONZALES, SCAFUTO and DOES 1 through 6,**
 20 **inclusive)**

21 67. Plaintiff hereby realleges and incorporates by reference the allegations set
 22 forth in paragraphs 1 through 66, inclusive, above, as if set forth in full herein.
 23

24 68. The actions of defendants JACKSON, GONZALES, and DOES 1 to 6,
 25 inclusive, complained of in this action in entering, searching and seizing the Plaintiff's
 26 property constituted an unlawful and unreasonable seizure of the Plaintiff's property in
 27 the absence of a warrant, consent, an emergency or exigency, in violation of the
 28

1 Plaintiff's rights to be free from such and search and seizure of their property under the
2 Fourth Amendment to the United States Constitution.

3 69. As a direct and proximate result of the actions of Defendants JACKSON,
4 GONZALES and DOES 1 to 6, inclusive, Plaintiff was: 1) substantially physically,
5 mentally and emotionally injured; 2) incurred medical and psychological costs, bills and
6 expenses, 3) incurred lost wages and profits, and 4) suffered terrible physical injury, pain
7 and suffering, as well as mental and emotional pain and suffering, and 5) suffered / is
8 suffering lost wages and profits; all in an amount to be proven at trial; in excess of
9 \$3,000,000.00.
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12 70. The actions of said defendants, and each of them, as complained of herein,
13 were committed maliciously, oppressively and in reckless disregard of Plaintiffs'
14 constitutional rights, sufficient for an award of punitive / exemplary damages against said
15 defendants, in an amount to be proven at trial, in excess of \$2,000,000.00, save CITY.
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19 **FOURTH CAUSE OF ACTION**
20 **MALICIOUS PROSECUTION**
21 **VIOLATION OF 42 U.S.C. § 1983**

22 **Violation Of Fourth And Fourteenth Amendment Right**
23 **(Against JACKSON, GONZALES, SCAFUTO and DOES 1 through 6, inclusive)**

24 71. Plaintiff hereby realleges and incorporates by reference the allegations set
25 forth in paragraphs 1 through 70, inclusive, above, as if set forth in full herein.
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1 72. As shown above, JACKSON, GONZALES and DOES 1 through 6,
2 inclusive, falsely arrested plaintiff GONZALEZ on the bogus charge of violation of Cal.
3 Penal Code § 148(a)(1), something said defendants knew was not true.
4

5 73. Also as shown above, JACKSON, GONZALES and DOES 1 through 6,
6 inclusive, knew that plaintiff GONZALEZ had not committed any violations of Cal.
7 Penal Code § 148(a)(1) (resisting / obstructing / delaying a peace officer engaged in the
8 lawful performance of his duties), or any other law, and, nonetheless, authored bogus
9 police reports and accused plaintiff GONZALEZ of various acts to show that plaintiff
10 had violated Cal. Penal Code § 148(a)(1.)
11

12 74. Said police reports authored by JACKSON, GONZALES and DOES 1
13 through 6, inclusive, also contained material misrepresentations of facts and material
14 omission of facts upon which the Orange County District Attorney's Office relied, in
15 large part, in deciding to file and to maintain the criminal prosecution of the plaintiff
16 GONZALEZ.
17

18 75. Moreover, said criminal action against GONZALEZ was terminated in his
19 favor, in a manner inconsistent with guilt.
20

21 76. Moreover, as shown above, none of said defendant officers had probable
22 cause to believe that GONZALEZ committed a crime.
23

24 77. Moreover, said criminal action was procured by said defendants with malice.
25
26
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1 78. Moreover, as California does not provide for any remedy for an aggrieved
2 malicious prosecution victim to sue a public employee for the filing and/or procurement
3 of a bogus criminal action, pursuant to *Parratt v. Taylor*, 451 U.S. 527 (1981), the actions
4 of said defendants constituted a violation of the Fourth, Ninth and Fourteenth
5 Amendments to the United States Constitution.
6

7 79. As a direct and proximate result of the actions of defendants JACKSON,
8 GONZALES and DOES 1 through 6, inclusive, as complained of herein, Plaintiff: 1) was
9 substantially physically, mentally and emotionally injured, 2) incurred medical and
10 psychological costs, bills and expenses, 3) lost the use and possession of his real and
11 personal property and 4) incurred other special and general damages and expenses,
12 including attorney's fees and associated costs; all in an amount to be proven at trial which
13 is in excess of \$3,000,000.00.
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17 80. The actions of defendants JACKSON, GONZALES and DOES 1 through 6,
18 inclusive, as complained of herein, were committed maliciously, oppressively and/or in
19 reckless disregard of plaintiff's constitutional rights, sufficient for an award of punitive
20 exemplary damages against all defendants, save for defendant CITY, in an amount to be
21 proven at trial which is in excess of \$2,000,000.00.
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FIFTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983

**Violation of Fourteenth Amendment Rights -
Deliberate Fabrication of Evidence
(Against JACKSON, GONZALES, SCAFUTO and DOES 1 through 6, inclusive)**

81. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 80, inclusive, above, as if set forth in full herein.

82. JACKSON, GONZALES and DOES 1 through 6, inclusive, deliberately fabricated evidence that was used to criminally charge and prosecute GONZALEZ.

83. JACKSON, GONZALES and DOES 1 through 6, inclusive's reports of the incident complained of in this action are littered with material misrepresentations.

84. The reports were ultimately submitted to the Orange County District Attorney's Office and relied upon during the prosecution of GONZALEZ.

85. Defendants knew that they were misrepresenting the facts of this incident and were deliberately indifferent to the fact that their misrepresentations were relied upon during the prosecution of GONZALEZ.

86. The actions of JACKSON, GONZALES and DOES 1 through 6, inclusive, as Complained of herein, constituted a violation of GONZALEZ' rights under the Fourteenth Amendment to the United States Constitution.

87. As a direct and proximate result of the actions of Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, inclusive, as complained of herein, GONZALEZ: 1) was substantially physically, mentally and emotionally injured; 2)

1 incurred medical and psychological costs, bills and expenses and 3) incurred other special
2 and general damages and expenses in an amount to be proven at trial which is in excess
3 of \$3,000,000.00.
4

5 88. The actions of said Defendants, and each of them, as complained of herein,
6 were committed maliciously, oppressively and in reckless disregard of GONZALEZ'
7 constitutional rights, sufficient for an award of punitive / exemplary damages against all
8 defendants and each of them, save for Defendant CITY, in an amount to be proven at trial
9 which is in excess of \$2,000,000.00.
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11

12 **SIXTH CAUSE OF ACTION**
13 **VIOLATION OF 42 U.S.C. § 1983**
14 **FEDERAL CLAIM FOR FAILURE TO PROPERTY TRAIN AND FOR**
15 **FAILURE TO PROPERLY HIRE / FIRE / DISCIPLINE**
16 **(Against Defendants CITY)**

17 89. Plaintiff hereby realleges and incorporates by reference the allegations set
18 forth in paragraphs 1 through 88, inclusive, above, as if set forth in full herein.

19 90. As complained of herein above, the acts of defendants JACKSON,
20 GONZALES and DOES 1 through 6, deprived Plaintiff of his rights under the laws of
21 the United States and The United States Constitution.
22

23 91. The training policies of CITY were not adequate to train its police officer
24 employees to properly and lawfully handle situations similar to the one they were
25 presented with when they confronted Plaintiff, including knowing what conduct rises to
26 the level of a violation of Penal Code § 148(a)(1.)
27
28

1 92. CITY was deliberately indifferent to the obvious consequences of its failure
2 to train its police officer employees adequately. CITY was aware of previous violent
3 propensities of JACKSON.
4

5 93. The failure of CITY to provide adequate training caused the deprivation of
6 Plaintiff's rights by Defendants JACKSON, GONZALES and DOES 1 through 6,
7 inclusive.
8

9 94. CITY's failure to train is closely related to the deprivation of Plaintiff's
10 rights as to be the moving force that ultimately caused Plaintiff's injuries.
11

12 95. As a direct and proximate result of the actions of defendants JACKSON,
13 GONZALES, and Does 1 through 6, inclusive, and each of them, as complained of
14 herein, Plaintiff: 1) was substantially physically, mentally and emotionally injured; 2)
15 incurred medical and psychological costs, bills and expenses; 3) and incurred other
16 special and general damages, including attorney's fees, investigator fees and associated
17 litigation costs and expenses; all in an amount to be proven at trial in excess of
18 \$3,000,000.00.
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22 96. The actions of said defendants, and each of them, as complained of herein,
23 were committed maliciously, oppressively and in reckless disregard of Plaintiff's
24 constitutional rights, sufficient for an award of punitive / exemplary damages against
25 defendants DOES 7 through 10, inclusive, in an amount to be proven at trial which is in
26 excess of \$2,000,000.00.
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SEVENTH CAUSE OF ACTION
False Arrest / False Imprisonment
Under California State Law
(Against All Defendants)

97. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 96, inclusive, above, as if set forth in full herein.

98. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, did not have probable cause to believe that GONZALEZ had committed a crime.

99. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, restrained, brutalized and deprived GONZALEZ of his liberty.

100. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, intentionally deprived GONZALEZ of his freedom of movement by use of physical force and violence.

101. GONZALEZ did not consent to said deprivation of his freedom of movement by Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, or to the use of force and violence upon him.

102. GONZALEZ suffered harm because of said deprivation of his freedom of movement by Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive.

103. The actions committed by Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, as complained of herein, constituted a false arrest / false imprisonment of GONZALEZ under California state law.

1 104. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, are
2 liable to GONZALEZ for said false arrest / false imprisonment, pursuant to Cal.
3 Government Code §§ 815.2(a), 815.6, 820, 820.2, 820.8, and otherwise pursuant to the
4 common-law.
5

6 105. The actions committed by Defendants JACKSON, GONZALES and DOES
7 1 through 6, inclusive, as complained of herein, proximately caused GONZALEZ to
8 suffer substantial physical injuries, severe mental and emotional distress and suffering,
9 medical / psychological bills, costs and expenses, and other costs and expenses, in an
10 amount to be proven at trial which is in excess of \$3,000,000.00.
11

12 106. The actions of Defendants JACKSON, GONZALES and DOES 1 through 6,
13 inclusive, were committed maliciously, oppressively and constituted despicable conduct,
14 sufficient for an award of punitive / exemplary damages against JACKSON,
15 GONZALES and DOES 1 through 6, inclusive, in an amount to be proven at trial which
16 is in excess of \$2,000,000.00.
17
18
19

20 **EIGHTH CAUSE OF ACTION**

21 **Battery**

22 **Under California State Law**

23 **(Against All Defendants)**

24 107. Plaintiff hereby realleges and incorporates by reference the allegations set
25 forth in paragraphs 1 through 106, inclusive, above, as if set forth in full herein.
26
27
28

1 108. The actions committed by JACKSON, GONZALES and DOES 1 through 6,
2 inclusive, constituted the unjustified, non-consensual, use of unlawful force and violence
3 upon Plaintiff GONZALEZ, and, therefore, constituted a battery of him by said above-
4 referenced defendant officers under California state law.
5

6 109. As a direct and proximate result of the actions of Defendants JACKSON,
7 GONZALES and DOES 1 through 6, inclusive, Plaintiff was: 1) substantially physically,
8 mentally and emotionally injured, and suffered great physical, mental and emotional pain
9 and suffering; 2) incurred medical and psychological costs, bills and expenses and 3)
10 incurred other special and general damages, including attorney's fees, bail costs and other
11 associated costs and expenses; all in an amount to be proven at trial in excess of
12 \$3,000,000.00.
13
14
15

16 110. The actions by said defendants were committed maliciously and
17 oppressively and constituted despicable conduct; sufficient for an award of punitive /
18 exemplary damages against all defendants and each of them, save Defendant
19 CITY, in an amount to be proven at trial in excess of \$2,000,000.00.
20
21

22 111. Said Defendants CITY, JACKSON, GONZALES and DOES 1 through 6,
23 inclusive, are liable to Plaintiff for said battery on him, pursuant to Cal. Government
24 Code §§ 815.2(a), 815.6, 820, 820.8 and otherwise pursuant to the common law.
25

26 ///

27 ///

NINTH CAUSE OF ACTION

Assault

Under California State Law

(Against All Defendants)

112. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 111, inclusive, above, as if set forth in full herein.

113. The actions committed by Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, above-described, constituted an assault of Plaintiff under California state law, as Plaintiff was unlawfully placed in reasonable fear of receiving an imminent violent injury by said Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive.

114. Said Defendants CITY, JACKSON, GONZALES and DOES 1 through 6, inclusive, and each of them, are liable to Plaintiff, under California state law for said assaults, pursuant to Cal. Government Code §§ 815.2(a), 815.6, 820 and 820.8, pursuant to the California Constitution, and otherwise pursuant to the common law.

115. As a direct and proximate result of the actions of said Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, Plaintiff was: 1) substantially physically, mentally and emotionally injured; 2) incurred medical and psychological costs, bills and expenses and 3) incurred other special and general damages, including attorney's fees, bail costs and other associated costs and expenses; all in an amount to be proven at trial in excess of \$3,000,000.00.

1 116. The actions by Defendants JACKSON, GONZALES and DOES 1 through 6,
2 inclusive, were committed maliciously and oppressively and constituted despicable
3 conduct; sufficient for an award of punitive / exemplary damages against all defendants
4 and each of them, save Defendant CITY, in an amount to be proven at trial in excess of
5 \$2,000,000.00/ inclusive.
6

7
8 **TENTH CAUSE OF ACTION**
9 **Violation of Cal. Civil Code § 52.1**
10 **Under California State Law**
11 **(Against All Defendants)**

12 117. Plaintiff hereby realleges and incorporates by reference the allegations set
13 forth in paragraphs 1 through 116, inclusive, above, as if set forth in full herein.

14 118. The actions of defendants JACKSON, GONZALES and DOES 1 through 6,
15 inclusive, as complained of herein, interfered with, and/or attempted to interfere with, by
16 use of threats, intimidation, and coercion, the exercise or enjoyment by plaintiff of the
17 rights secured to him by the Constitution and laws of the United States, and of the rights
18 secured to him by the California Constitution and otherwise by California law, in
19 violation of California Civil Code §52.1.
20

21 119. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, are
22 liable to plaintiff for said violations of his constitutional rights, pursuant to California
23 Civil Code §52.1, and California Government Code §§815.2(a), 815.6, 820, 820.8.
24

25 120. As a direct and proximate result of the actions of defendants JACKSON,
26 GONZALES and DOES 1 through 6, inclusive, as complained of herein, Plaintiff: 1) was
27
28

COMPLAINT FOR DAMAGES

1 substantially physically, mentally and emotionally injured, and endured great physical,
 2 mental and emotional pain and suffering; 2) incurred medical and psychological costs,
 3 bills and expenses and 3) incurred other special and general damages and expenses in an
 4 amount to be proven at trial, in excess of \$3,000,000.00.
 5

6 121. The actions of defendants JACKSON, GONZALES and DOES 1 through 6,
 7 inclusive, as complained of herein, were committed maliciously, oppressively and/or in
 8 reckless disregard of Plaintiff's constitutional rights sufficient for an award of punitive /
 9 exemplary damages against JACKSON, GONZALES and DOES 1 through 6, inclusive,
 10 in an amount to be proven at trial, in excess of \$2,000,000.00.
 11

12 122. In addition, as a result of the actions of defendants JACKSON, GONZALES
 13 and DOES 1 through 6, inclusive, as complained of herein, constituted a violation of
 14 California Civil Code § 52.1, and, therefore, plaintiff is entitled to an award of treble
 15 compensatory damages against all defendants, and each of them.
 16
 17
 18

19 **ELEVENTH CAUSE OF ACTION**

20 **Negligence**

21 **Under California State Law**

22 **(Against all Defendants)**

23 123. Plaintiff hereby realleges and incorporate by reference the allegations set
 24 forth in paragraphs 1 through 122, inclusive, above, as if set forth in full herein.
 25

26 124. Defendants CITY and Does 7 through 10, inclusive, knew, and/or with the
 27 exercise of reasonable diligence should have known, of the violent propensities of
 28 Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, who violated

1 Plaintiff's constitutional rights, as complained of herein. JACKSON has been previously
2 reprimanded and is also being sued for shooting and killing an unarmed man.

3 125. Moreover, the actions committed by Defendants JACKSON, GONZALES
4 and DOES 1 through 6, inclusive, as complained of herein and as described above, also
5 constituted a breach of defendants' duty to use due care toward Plaintiff.
6

7 126. Moreover, defendant CITY breached its duty of care the Plaintiff, and to
8 members of the public similarly situated, by failing to train its officers that they have no
9 right to make unlawful entries and searches of private residences.
10

11 127. As a direct and proximate result of the actions committed by Defendants
12 JACKSON, GONZALES and DOES 1 through 6, inclusive, as complained of herein,
13 Plaintiff: 1) was substantially physically, mentally and emotionally injured; 2) incurred
14 medical and psychological costs, bills and expenses and 3) incurred other special and
15 general damages and expenses in an amount to be proven at trial, which is in excess of
16 \$3,000,000.00.
17
18
19

20 **TWELFTH CAUSE OF ACTION**

21 **Trespass to Property**
22 **Under California State Law**
23 **(Against all Defendants)**

24 128. Plaintiffs hereby realleges and incorporates by reference the allegations set
25 forth in paragraphs 1 through 127, inclusive, above, as if set forth in full herein.
26

27 129. As shown above, Plaintiff was the lawful possessors of 16865 Bayview
28 Drive, Sunset Beach, California.

COMPLAINT FOR DAMAGES

1 130. As shown above, JACKSON, GONZALES and DOES 1 through 6,
2 inclusive, intentionally and recklessly entered Plaintiff's home and searched the home –
3 causing damage to the property and terrifying Plaintiff.
4

5 131. Defendants did not have permission to enter into Plaintiff's property.

6 132. As shown above, Plaintiffs were harmed by defendants' trespass and that
7 conduct was a substantial factor in causing Plaintiff's harm.
8

9 133. As a direct and proximate result of the actions Defendants JACKSON,
10 GONZALES and DOES 1 through 6, inclusive, as complained of herein, Plaintiff: 1) was
11 substantially physically, mentally and emotionally injured; 2) incurred medical and
12 psychological costs, bills and expenses, and 3) incurred other special and general
13 damages and expenses in an amount to be proven at trial which is in excess of
14 \$3,000,000.00.
15
16

17 134. The actions committed by Defendants JACKSON, GONZALES and DOES
18 1 through 6, inclusive, as complained of herein, were malicious, oppressive and
19 constituted despicable conduct, sufficient for an award of punitive / exemplary damages
20 against all defendants, save for Defendant CITY, in an amount to be proven at trial which
21 is in excess of \$2,000,000.00.
22
23

24
25 ///

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27 ///

THIRTEENTH CAUSE OF ACTION
Intentional Infliction Of Emotional Distress
Under California State Law
(Against All Defendants)

135. Plaintiff hereby reallege and incorporate by reference the allegations set forth in paragraphs 1 through 134, inclusive, above, as if set forth in full herein.

136. Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, knew and/or should have known that Plaintiff was susceptible to suffering severe emotional distress from the actions taken and committed against Plaintiff as complained of herein.

137. The actions committed by Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, during the incident as complained of herein, were malicious, oppressive, and/or in reckless disregard for Plaintiff's constitutional rights, was despicable and of such an outrageous nature as to be shocking to the conscience.

138. The actions of Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, as complained of herein, committed against Plaintiff, directly and proximately caused Plaintiff to suffer severe emotional distress.

139. Defendants, and each of them, are liable to Plaintiff for said intentional infliction of emotional distress pursuant to California state law, and otherwise pursuant to the common-law.

140. As a direct and proximate result of the actions of Defendants JACKSON, GONZALES and DOES 1 through 6, inclusive, as complained of herein, Plaintiff: 1) was

1 substantially physically, mentally and emotionally injured; 2) incurred medical and
2 psychological costs, bills and expenses, and 3) incurred other special and general
3 damages and expenses in an amount to be proven at trial which is in excess of
4 \$5,000,000.00.
5

6 141. The actions committed by Defendants JACKSON, GONZALES and DOES
7
8 1 through 6, inclusive, as complained of herein, were malicious, oppressive and
9 constituted despicable conduct, sufficient for an award of punitive / exemplary damages
10 against JACKSON, GONZALES and DOES 1 through 6, inclusive, in an amount to be
11 proven at trial which is in excess of \$2,000,000.00.
12

13 **WHEREFORE**, plaintiff prays for judgment as follows:
14

- 15 a) For a judgment against all defendants for compensatory damages in an
16 amount in excess of \$3,000,000.00;
17
18 b) For a judgment against all defendants, save defendant CITY, for punitive
19 damages in an amount in excess of \$2,000,000.00;
20
21 c) For an award of reasonable attorney's fees and costs;
22
23 d) For a trial by jury; and
24
25 e) For such other and further relief as this honorable court deems just and
equitable.

26 /S/
27 GREGORY PEACOCK
28